

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA and  
the STATE OF INDIANA,

Plaintiffs,

V.

CLEVELAND-CLIFFS BURNS  
HARBOR LLC and CLEVELAND-  
CLIFFS STEEL LLC,

## Defendants

Case No. 22-cv-26

**GOVERNMENT PLAINTIFFS' MOTION TO ENTER CONSENT DECREE**

The United States, on behalf of the U.S. Environmental Protection Agency (“EPA”), and the State of Indiana (“Indiana”), on behalf of the Indiana Department of Environmental Management (“IDEM”) (collectively “Government Plaintiffs” or “Governments”), jointly request that the Court approve, sign, and enter the proposed Consent Decree in this case. The Consent Decree is submitted to the Court as an attachment to the memorandum in support of this motion. If approved, the Consent Decree would resolve alleged violations under several environmental statutes relating to a steel manufacturing and finishing facility in Burns Harbor, Indiana (“Facility”) owned and operated by Cleveland-Cliffs Burns Harbor LLC and its corporate parent Cleveland-Cliffs Steel LLC (collectively, “Cleveland-Cliffs”). *See* Complaint [Dkt. 1]. The proposed Consent Decree would also resolve the claims of the citizen groups Environmental Law & Policy Center (“ELPC”) and Hoosier Environmental Council (“HEC”) (collectively, “Citizen Plaintiffs”) in *Environmental Law & Policy Center and Hoosier*

*Environmental Council v. Cleveland-Cliffs Burns Harbor LLC and Cleveland-Cliffs Steel LLC*,  
Case No. 19-cv-473 (N.D. Ind.).

The proposed Consent Decree would obligate Cleveland-Cliffs to take a number of measures to come into compliance with the law. In particular, the proposed Consent Decree requires the operation of ammonia and cyanide treatment systems; measures to improve pollution control system reliability; specific procedures for preventing violations during emergencies; and public notification in the event of certain exceedances. Defendants are also required to complete two Environmentally-Beneficial Projects, to be administered by the state of Indiana: (1) the donation of 127 acres of land abutting the Indiana Dunes National Park; and (2) a water sampling project to monitor and report on water quality at four locations in the East Branch of the Little Calumet River and Lake Michigan. Finally, under the proposed Consent Decree, Defendants would pay a civil penalty of \$3 million, split evenly between the United States and Indiana, and reimburse the Governments' response costs in responding to an August 2019 spill.

After careful review of the one public comment on the Consent Decree, the United States, after consultation with Indiana, continues to believe that the Decree is fair, reasonable, consistent with the underlying statutes, and in the public interest. Accordingly, the Governments respectfully request entry of the proposed Consent Decree by this Court. Defendants have agreed to entry of the Consent Decree (CD ¶ 105), and both the Defendants and Citizen Plaintiffs support this motion.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

s/ Nicholas McDaniel

NICHOLAS MCDANIEL

Trial Attorney

Environmental Enforcement Section

Environment and Natural Resources Division

United States Department of Justice

P.O. Box 7611, Ben Franklin Station

Washington, D.C. 20044-7611

Telephone: 202-514-0096

[Nicholas.A.McDaniel@usdoj.gov](mailto:Nicholas.A.McDaniel@usdoj.gov)

CLIFFORD D. JOHNSON

United States Attorney

WAYNE T. AULT

Assistant United States Attorney

Northern District of Indiana

5400 Federal Plaza, Suite 1500

Hammond, Indiana 46320

Telephone: 219-937-5500

Telecopy: 219-852-2770

FOR THE STATE OF INDIANA:

s/ Meredith McCutcheon

Meredith McCutcheon

Attorney No. 32391-49

Deputy Attorney General

OFFICE OF THE INDIANA ATTORNEY GENERAL TODD

ROKITA

Indiana Government Center South, Fifth Floor

302 West Washington Street

Indianapolis, IN 46204-2770

Telephone: (317) 233-9357

Fax: (317) 232-7979

Email: [Meredith.McCutcheon@atg.in.gov](mailto:Meredith.McCutcheon@atg.in.gov)

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2022, the foregoing Government Plaintiffs' Motion to Enter Consent Decree was filed electronically and notice of this filing will be automatically sent to counsel of record on the ECF system. A copy of the foregoing Government Plaintiffs' Motion to Enter Consent Decree was also sent by electronic mail to the following counsel:

Counsel for Cleveland-Cliffs:

Byron Taylor  
Sidley Austin LLP  
312-853-4717  
bftaylor@sidley.com

Counsel for ELPC and HEC

Howard Learner  
Executive Director  
Environmental Law & Policy Center  
312-673-6500  
HLearner@elpc.org

s/Nicholas McDaniel  
NICHOLAS MCDANIEL